



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

April 28, 2004

SUBJECT: **2004-0252** – Application for a 8,462 square foot site located at **777 The Dalles** in an R-1 (Low Density Residential) Zoning District (APN: 323-15-038):

Motion **Variance** from SMC (Sunnyvale Municipal Code) Section 19.14.060(a)(4) to allow a one-car garage where a two-car garage is required for single family homes exceeding 1,800 sq. ft.

REPORT IN BRIEF

Existing Site Conditions Single-family home

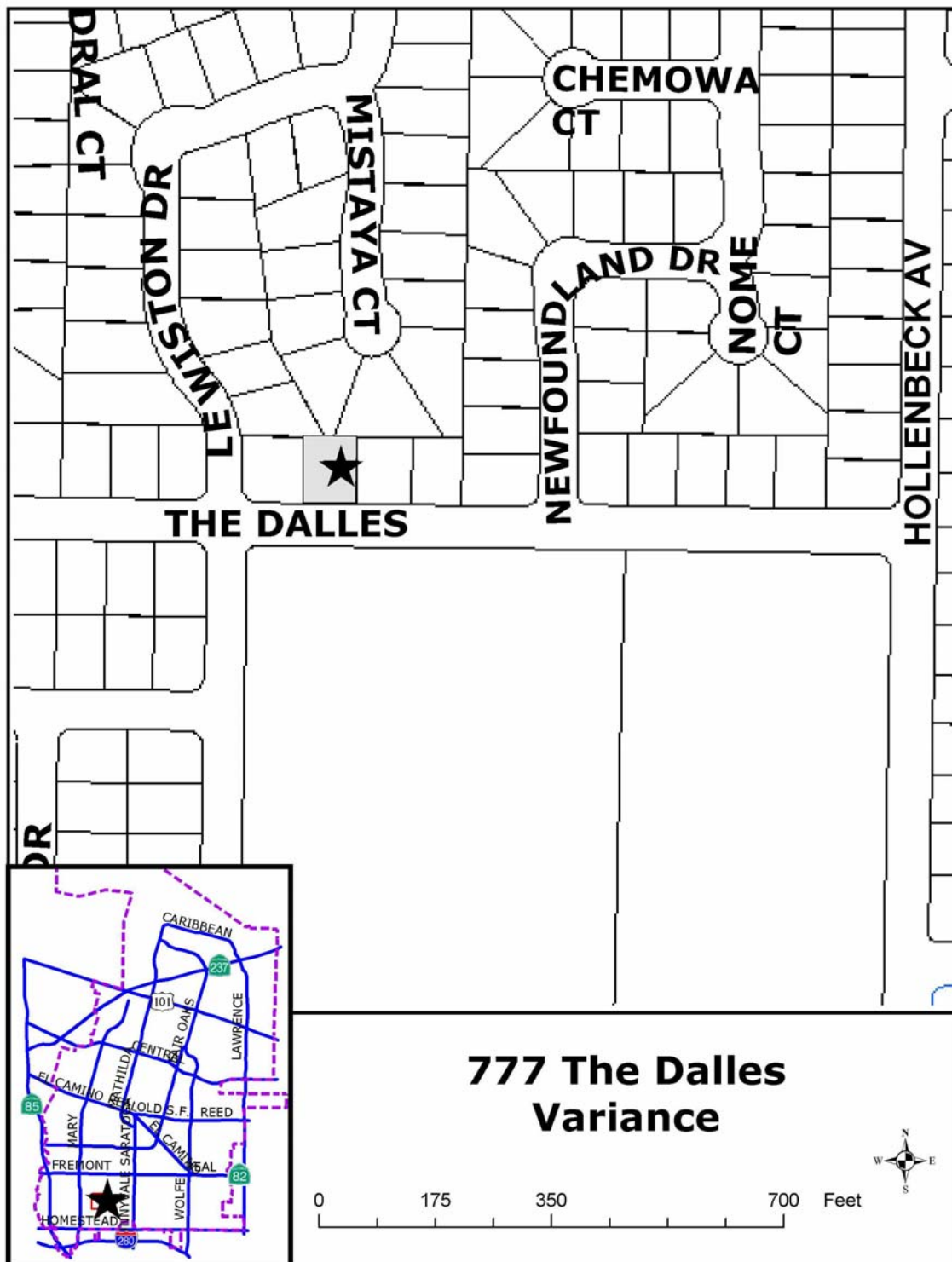
Surrounding Land Uses

| | |
|-------|---------------------------|
| North | Single-Family Residential |
| South | Serra Park |
| East | Single-Family Residential |
| West | Single-Family Residential |

Issues Adequate Parking

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with Conditions



PROJECT DATA TABLE

| | <u>EXISTING</u> | <u>PROPOSED</u> | <u>REQUIRED/ PERMITTED</u> |
|--------------------------------|-------------------------|--|---------------------------------------|
| General Plan | Low Density Residential | Same | Low Density Residential |
| Zoning District | R-1 | Same | R-1 |
| Lot Size (s.f.) | 8,462 | Same | 8,000 min. |
| Gross Floor Area (s.f.) | 2,078 | Addition: 243.5 sq. ft. Total: 2,321 | No max. |
| Lot Coverage (%) | 24.5% | 27.4% | 45% max. |
| No. of Units | 1 | Same | 1 max. |
| Building Height (ft.) | 18 | Same | 30 max. |
| No. of Stories | 1 | Same | 2 max. |
| Setbacks (facing prop.) | | | |
| • Front | 21 ft. | Same | 20 ft. min. |
| • Left Side | 13 ft. 4 in. | 6 ft. 4 in. | 6 ft. min. |
| • Right Side | 13 ft. 4 in. | Same | 9 ft. min. |
| • Rear | 24 ft. 4 in. | Same | 20 ft. min. |
| Parking | | | |
| ★ • Total No. of Spaces | 3 | 3 | 4 min. |
| • No. of Covered Spaces | 1 | 1 | 2 min. |

★ Starred and shaded items indicate deviations from Sunnyvale Municipal Code standards.

ANALYSIS**Background**

Previous Actions on the Site: In 1968, a building permit was obtained to convert the original two-car garage into a one-car garage. At that time, this action did not require replacement of the covered parking space.

The following table summarizes previous planning applications related to the subject site.

| Date | Action | Discussion |
|-------------|--|---|
| 1968 | A building permit to convert the garage was finalized, changing the original two-car garage into a one-car garage. | At that time, this action did not require replacement of the covered parking space |
| 12/02/03 | The applicant submitted a Variance request to allow a 14 ft. front yard setback. This Variance would allow the expansion of the side-loading garage and provide two covered parking spaces. | The applicant was proposing a one-story addition to the dining room and kitchen areas, exceeding a gross floor area of 1,800 sq. ft. Homes which exceed this threshold are required to provide two covered parking spaces. |
| 1/20/04 | The Administrative Hearing Officer, after taking the matter under advisement, approved a modified Variance with a 16 ft. front yard setback. | Special circumstances were found with the method of construction of the existing garage. In addition, the modified setback would comply with the minimum setback for the R-1 Zoning District (see Administrative Hearing Findings, Attachment 4). |
| 2/2/04 | Councilmember Miller appealed this decision to the Planning Commission. | Concerns were stated about the compatibility of the front yard setback and desire to have it reviewed by the Planning Commission. |
| 2/23/04 | The Planning Commission denied the Variance and upheld the appeal. | The Commission found the granting of this Variance would be a special privilege (see Attachment 5, Planning Commission Minutes of 2/23/04) |
| 2/23/04 | The applicant appealed this decision to City Council. | Requesting reconsideration of the circumstances. |
| 3/16/04 | The City Council denied the Variance and denied the appeal. | As part of the motion, they also waived Variance fees if the applicant were to submit a new Variance for relief from the two-car garage requirement. |

Description of Proposed Project

The proposed project includes an addition to the dining room and kitchen of an existing single-family house for a total house size of 2,321. Due to a previous decision by the City Council to deny any Variance from the front setback requirement, the applicant has resubmitted a Variance requesting relief from the two-car garage requirement for homes exceeding 1,800 sq. ft.

Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor additions to existing facilities.

Variance

Use: The proposed use is an expansion of a kitchen and dining room in a single family home.

Site Layout: The existing one-story house is centered in the middle of the lot with a one-car side-loading garage located 21 ft. back from the property line. The kitchen and dining room expansion have a side-yard setback of 6 ft. 4 in., meeting the requirements for the R-1 Zoning District. No change is proposed to the garage.

Architecture: The existing house is a one-story ranch home with a brick and wood siding exterior. The same materials and architectural styles will be used for the proposed addition.

Parking: The proposed addition triggers the need for two covered and two uncovered parking spaces for this home. The two options to provide this parking consist of expanding the garage into the front setback or reconvert the existing garage. The Variance from the front yard setback was denied by the Council, and information provided by the applicant at the public hearings indicates that a thick cement slab in the converted portion of the garage makes reconvert the existing garage prohibitively costly.

Staff finds that these constraints constitute an extraordinary circumstance. This garage is one of the few in the neighborhood that was legally converted. Due to setback constraints and construction methods, providing the additional parking needed for the proposed 250 sq. ft. addition is difficult. Staff recommends approval of the Variance because the Findings were made (see Attachment 1).

Compliance with Development Standards

The project meets all development standards with the exception of parking, as discussed in the Parking section.

Expected Impact on the Surroundings

This Variance will have no impact on the surrounding properties. The non-conforming parking situation has existed since 1968. The proposed addition expands common living areas which typically does not increase demand for parking. The large curving driveway also provides three to four tandem parking spaces which should accommodate overflow parking.

Findings, General Plan Goals and Conditions of Approval

Staff was able to make the required Findings based on the justifications for the Variance.

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

| Notice of Public Hearing | Staff Report | Agenda |
|---|---|--|
| <ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• Mailed to the adjacent property owners of the project site | <ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library | <ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial |

Alternatives

1. Approve the Variance with attached conditions.
2. Approve the Variance with modified conditions.
3. Deny the Variance.

Recommendation

Alternative 1.

Prepared by:

Diana O'Dell
Project Planner

Reviewed by:

Fred Bell
Principal Planner

Attachments:

1. Findings
2. Conditions of Approval
3. Site and Architectural Plans
4. Findings and Minutes from the Administrative
Hearing on January 20, 2004
5. Minutes from the Planning Commission Hearing of
February 23, 2004

Recommended Findings - Variance

1. *Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.*

The property is exceptional in that it has a one-car garage with a thick cement slab in the converted portion. Front setback constraints make it impossible to expand the garage and the cement slab makes it prohibitively costly to reconvert the garage. Most garages in the neighborhood are two-car, allowing those homes to expand as needed. The combination of setback constraints and the method of garage conversion create an exceptional circumstance for the property.

2. *The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.*

The Variance will not be detrimental to the surrounding properties because no additional parking demand is expected as a result of the proposed addition. The non-conforming parking has existed since 1968. The existing driveway is also large enough to accommodate overflow parking.

3. *Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.*

The intent of the ordinance will still be served by this Variance. The purpose was to ensure that additional parking demand generated by house expansions was accommodated on-site. The proposed addition will not generate additional parking and the applicant has pursued available means to provide the needed parking.

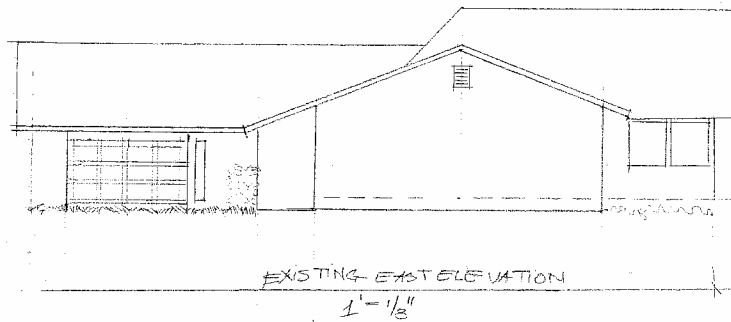
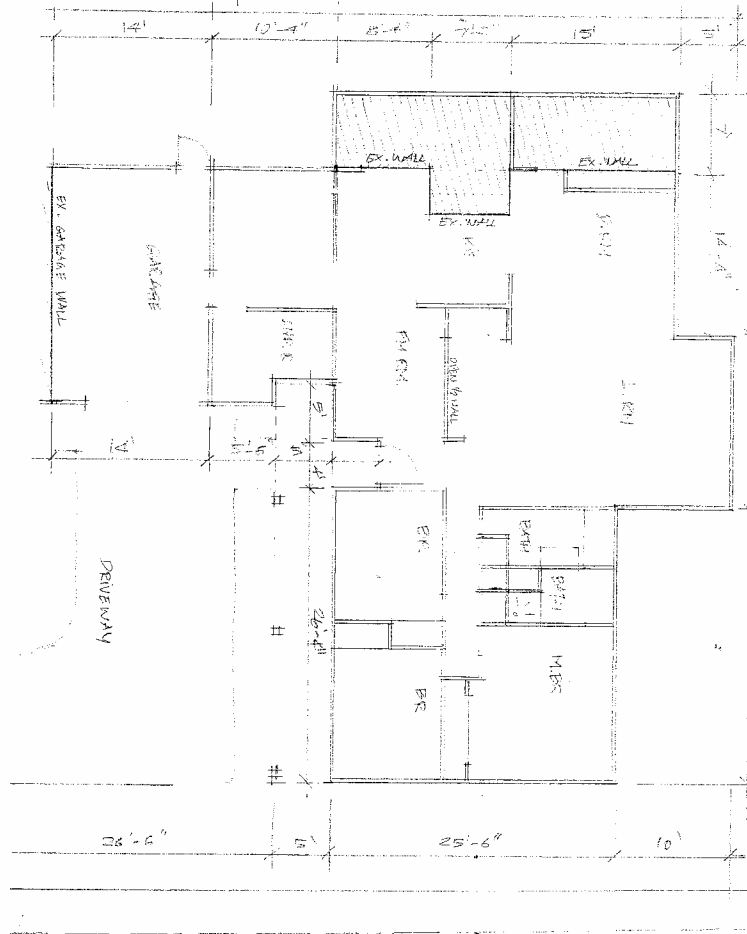
Recommended Conditions of Approval - Variance

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. The Variance shall expire two years from the date of approval by the final review authority if not executed or if the use is discontinued.
2. The Variance and approved Design Review shall be valid only in conjunction with detailed plans as submitted or as may be modified by the reviewing authority of the City during a public hearing. Minor changes of the approved plans may be approved administratively by the Director of Community Development. This Variance approval is for a one-car garage where a two-car garage is required for homes exceeding 1,800 sq. ft.
3. Any proposed addition beyond what is described in this Variance application shall require re-submittal and approval of another Variance from the parking requirement.
4. The applicant shall obtain a building permit.
5. The applicant/property owner shall reproduce the Conditions of Approval on the Title Page of the plans submitted for a building permit for this project.
6. Roof materials and exterior materials and colors of the addition shall match the existing house. This shall be noted on plans submitted for the building permit.

Frostia, 777
The Dales Ave.



**January 20, 2004
Addendum 2003-0903**

On January 20, 2004 the Planning Officer and Project Planner visited the subject site and the neighborhood. The purpose of the site visit was to get a better understanding of potential visual impacts of the proposed reduced front yard setback. After the field visit the Planning Officer requested additional detail of the front yard setback requirements in the subject zoning district. Staff indicated that in the R-1 zoning district a minimum of 20 feet is required for a single lot development (including additions) and that a multi-lot development may observe a minimum of 15 feet and an average of 20 feet. Although all of the properties on this block of The Dalles were developed at the same time, it appears that the minimum setback is about 20 feet and the average setback is about 20.

After consideration, the Planning Officer rendered the following decision: Approve the Variance for front yard setback with modifications. Instead of the requested setback of 14 feet, a setback of 16 feet is approved which would render an interior garage dimension of approximately 370 s.f. (20 ft. x 18.5 ft). This dimension is consistent with the requirement for a minimum of 400 s.f. garage due to the separate room devoted to laundry, water heater and furnace.

Variance Findings

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.

The garage for this house was previously legally converted into a one-car garage with an adjacent laundry area. The floor for the enclosed area was constructed with a very thick (20-inch) concrete foundation that would be very costly to convert back to garage. In addition, the subject site is located across the street from a public park resulting in more vehicles parking on-street placing making on-site parking more important in the neighborhood.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

The reduction in front yard setback will not create a privacy impact for the surrounding neighbors or create a significantly detrimental visual impact on the streetscape. Staff is able to make this finding. The provision of two full off-street parking spaces meets the minimum

parking requirement for the site, and allows the property owner to make improvements to the property.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

The intent of the front-yard setback ordinance is to create a compatible neighborhood setback with adequate distance between the buildings and the streets. Sunnyvale Municipal Code states that subdivisions in the R-1, R-0 and R-2 Zoning District may have varying front yard setbacks that range from 15 ft. to 20 ft. The Variance to allow an expansion of the garage area into the average 20-foot front yard setback would still be within the 15-foot minimum setback for subdivisions. This meets the intended goal of creating a variety of front yard setbacks, while allowing the property owner to create a conforming parking situation. As conditioned, the minimum garage area will be available for parking of vehicles as no mechanical equipment or large appliances may be located in the garage.

Conditions of Approval

The Planning Officer adopted the Conditions of Approval provided by staff with the following modifications:

- Modify condition 2:** *This Variance approval is for a front yard setback of 16 ft. where 20 ft. is required.*
- Add Condition 6:** *No mechanical equipment (e.g. water heater, furnace) or large appliances (e.g. washers, dryers, freezers) may be located in the garage.*

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PLANNING COMMISSION MINUTES OF 02/23/04

2003-0903 - Councilmember Miller [Appellant] - Appeal of a decision by the Administrative Hearing Officer approving a Variance from Sunnyvale Municipal Code 19.46.060 to allow a 14-foot front yard setback where 20 feet is required. The property is located at **777 The Dalles** in an R-0 (Low-Density Residential) Zoning District. (APN: 323-15-038) DO

Trudi Ryan, Planning Officer, presented the staff report. She summarized the application and noted that the Variance was granted by the Administrative Hearing Officer allowing a 16-foot front yard setback where 20 feet is required, noting the minimum setback of 15 feet for multiple home development projects. The Variance is needed in order to provide a two-car garage to meet the new parking requirement with the proposed expansion of the main house. The existing garage was legally converted into living space in 1985. She noted that the Administrative Hearing Officer was able to make the required Findings noting the unique situation associated with the property, the current orientation and the difficulty of re-converting the garage back to garage use. Councilmember Miller appealed the decision expressing concerns about the approved 16-foot front yard setback.

Comm. Simons commented that the staff report did not list the permit for the conversion of the garage in 1985. Ms. Ryan responded that staff report lists only Planning Permits issued and not Building Permits.

Comm. Hungerford asked what is the ramification if the Variance is denied. Ms. Ryan responded that if the Variance is denied, the garage would not have to be converted back, unless the addition to the house is still contemplated. Two covered parking spaces are required in order to accommodate an expansion. She added that because there is a 20-inch cement slab used as foundation for the converted garage, the conversion back to garage would cause an economic hardship to comply with the parking requirement.

Comm. Fussell asked staff if a carport is sufficient for the required two covered parking. Ms. Ryan responded that it could be used; however, a carport would still be subject to setback requirements. She added, however, that a garage is generally the preferred option for the required covered parking.

Chair Babcock opened the public hearing.

Gil Frostig, applicant, demonstrated with a PowerPoint presentation how the addition would be accomplished. He stated that there is an extraordinary circumstance to allow the remodeling and that the expansion is not materially detrimental. He explained the reasons why the deviation is being requested and noted that he was able to make the required Findings to grant the Variance.

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Comm. Simons asked if the proposed design is more costly than removing the wall to accommodate his remodeling. Mr. Frostig responded that the entire garage has to be destroyed to accommodate the expansion therefore would be more costly. He added that the new design would increase the value of his property while remaining in conformance with the new ordinance.

Chair Babcock asked staff to clarify the actual variance requested whether 14 feet or 16 feet front yard setback. Ms. Ryan explained that the original application was for a 14-foot front yard setback but the Administrative Hearing approved a 16-foot setback where 20 feet is required.

Chair Babcock closed the public hearing.

Vice Chair Moylan made a motion on Item #2003-0903 to deny the appeal and uphold the decision of the Administrative Hearing Officer approving the Variance. Comm. Simons seconded.

Vice Chair Moylan commented that the applicant articulated clearly that the required Findings were met to warrant approval of the Variance and Design Review. He noted that he felt this applicant was better prepared than most. He agreed with the applicant and staff that the circumstances of the property are unique and that the expansion would present an economic hardship thus making the first Finding. Regarding the second Finding, he noted the house across the street from a park and that the neighbors are happy. He also agreed with the Third Finding as there is probably not another house in Sunnyvale with the same set of circumstances. He also agreed with the appellant in forwarding the application to Planning Commission to further review the requested deviation. He was pleased with the applicant's presentation and recommended upholding the decision of Administrative Hearing Officer.

Comm. Simons expressed his concerns about the proposed Variance. One of his concerns is that there are a variety of home designs that make additions more or less difficult but do not suggest the need for a variation in the code. He understood that the proposal is close to the setback allowable to multi-property development. Overall, he felt that allowing the Variance would be a special privilege given to the applicant.

Chair Babcock did not support the motion. She stated that the argument of the cost factor is not compelling but rather would be an unfair privilege granted to the applicant. She further stated that the street is very established with a nice streetscape. She was unable to make the required Findings and urged the Commission to adhere to the required 20 feet setback.

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Motion failed 3-4 with Chair Babcock, Comms. Fussell, Hungerford and Simons dissenting.

FINAL MOTION:

Comm. Simons made a motion on Item #2003-0903 to grant the appeal and deny the Variance. Comm. Fussell seconded.

Comm. Simons stated that he was unable to make the required Findings; therefore, cannot grant the Variance.

Vice Chair Moylan emphasized that the circumstance is unique and unusual and that approval of the Variance is warranted. All that the applicant desires is to extend the side of his house but because of the new parking requirement, the setback deviation is needed in order to allow him the expansion while remaining in compliance. He added that the Variance criteria do not address the cost associated with the remodel. He agreed with staff's recommendation.

Comm. Simons stated that the main reason for the Variance is that cost being extraordinary and he felt that it is not enough reason to grant the Variance.

Motion carried 4-3 with Vice Chair Moylan, Comms. Klein and Sulser dissenting.

Ms. Ryan stated that the decision is final unless appealed to City Council within the 15-day appeal period.